

Cases under review
8840

SIDLEY & AUSTIN

8-333A073

1730 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006
TELEPHONE 202: 624-9000
TELEX 89-463

Founded in 1866 as
Williams & Thompson

No. **9873** A
RECORDATION NO. **9873** Filed 1425
Date **NOV 29 1978**
Fee \$ **50.00** NOV 29 1978 - 2 45 PM

INTERSTATE COMMERCE COMMISSION
ICC Washington, D. C.

CHICAGO OFFICE
ONE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60603
TELEPHONE 312: 329-5400
TELEX 25-4364

EUROPEAN OFFICE
9 HOLLAND PARK
LONDON, W11 3TH, ENGLAND
TELEPHONE 01: 727-1416
TELEX 21781

November 29, 1978

9873
RECORDATION NO. **9873** Filed 1425

NOV 29 1978 - 2 45 PM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
12th Street and Constitution Avenue
Washington, D.C. 20423

Dear Sirs:

Enclosed for recordation in accordance with
Section 20c of the Interstate Commerce Act are four
counterparts of the following documents:

Agreement made November 1, 1978,
between The Royal Trust Company
and Canadian Pacific Limited

Assumption and Confirmation of
Assignment dated as of November 1,
1978, among Montreal Trust Company,
The Royal Trust Company, and
Canadian Pacific Limited

These documents are related to documents previously re-
corded as Nos. 8840, 8840-A, and 8840-B.

The names and addresses of the parties are as
follows:

Montreal Trust Company
One Place Marie
Montreal, Quebec 43B 3L6

The Royal Trust Company
P.O. Box 7500, Station A
Toronto, Ontario M5W 1P9

Canadian Pacific Limited
Windsor Station
Montreal, Quebec H3C 3E4

RECEIVED
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I.C.C.
FEE OPERATION DR.

Handwritten signatures and initials on the left margin.

Interstate Commerce Commission
November 29, 1978
Page Two

Enclosed is our check for \$50.00 payable to
the Commission.

Very truly yours,



Lee A. Monroe

Enclosure

LAM/clf

THIS AGREEMENT made as of November 1, 1978, between
THE ROYAL TRUST COMPANY, a corporation incorporated under
the laws of the Province of Quebec, Canada (the "Owner
Trustee") and CANADIAN PACIFIC LIMITED, a corporation
organized under the laws of Canada (the "Company").

WHEREAS J. P. Morgan Interfunding Corp. ("Morgan")
was the beneficiary under a trust agreement (the "Owner Trust
Agreement") dated as of May 1, 1977, between Morgan and the
Owner Trustee; and

WHEREAS by an agreement made as of the 21st day
of June, 1978, a copy of which is attached hereto as
Schedule "A", between Morgan and the Company, Morgan
transferred and assigned all Morgan's right, title and interest
in and to the Owner Trust Agreement and the Estate (as defined
therein) to the Company free and clear of all liens, security
interests and other encumbrances arising through or attributable
to Morgan, other than the rights of the Equipment Trustee (and
the holders of Equipment Trust Certificates) and obligations
of the Company, as lessee, under the terms of the Lease; and

WHEREAS the parties hereto desire to terminate the
Owner Trust Agreement and the Lease as hereinafter set
forth; and

WHEREAS by an Assumption and Confirmation of
Assignment Agreement dated as of November 1, 1978, among

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INTERSTATE COMMERCE COMMISSION

the Equipment Trustee, the Owner Trustee and the Company, the holders of the Equipment Trust Certificates consented to the termination of the Lease; and

WHEREAS all terms used herein have the same meaning as such terms are defined in the Assumption and Confirmation of Assignment Agreement;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) lawful money of Canada paid by each of the parties hereto to the other, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, as well as the mutual covenants herein contained:

1. In satisfaction of the Company's capital interest in the Owner Trust, the Owner Trustee hereby distributes the property of the Owner Trust to the Company and hereby assigns, transfers and sets over unto the Company, its successors and assigns, all the Owner Trustee's right, title and interest in and to the Equipment, the Estate and the Equipment Trust Agreement.
2. The Company hereby accepts the assignment to it of the Owner Trustee's interest assigned to the Company as specified in paragraph 1 hereof.

3. Notwithstanding the provisions of Section 10.1 of the Owner Trust Agreement, the Company and the Owner Trustee hereby confirm that the Owner Trust Agreement is terminated and revoked and is of no further force or effect as of November 1, 1978. Except for the accounting by the Owner Trustee for all funds which have come into its hands, and subject to the last sentence of this paragraph 3, the Owner Trustee is hereby discharged and free of any further liability under the Equipment Trust Agreement, except such liability, not payable exclusively out of the assets of the Estate, as may be shown by such accounting then to exist. The Company hereby assumes all the Owner Trustee's duties and obligations under the Owner Trust Agreement, the Lease and the Equipment Trust Agreement and the Company shall succeed to all of the Owner Trustee's rights, powers and benefits under the Owner Trust Agreement, the Lease and the Equipment Trust Agreement. Notwithstanding this revocation and termination, the Owner Trustee shall continue to cooperate with the Company and shall take such actions, including, without limitation, the execution and delivery of documents and instruments, as the Company may reasonably request in order to transfer and perfect its title to the assets and properties constituting the Estate

and the registration thereof in the name of the Company, all at the cost and expense of the Company.

4. The Company and the Owner Trustee hereby confirm the termination as of November 1, 1978, of the Lease dated as of May 1, 1977, between the Owner Trustee, as lessor, and the Company, as lessee.

5. Notwithstanding the termination and revocation of the Owner Trust Agreement and the Lease and except as set out in paragraph 3 hereof, the Company assumes liability for, and does hereby indemnify, protect, save and keep harmless the Owner Trustee, and its successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, taxes (excluding any taxes payable by the Owner Trustee in its individual capacity or as measured by any compensation received by the Owner Trustee for its services under the Owner Trust Agreement but including any taxes payable by the Owner Trustee in its capacity as trustee), claims, actions, suits, costs, expenses or disbursements (including legal fees and expenses) of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Owner Trustee (whether or not also indemnified against by any other person under any other document) in any way relating to or arising out of the

Owner Trust Agreement, the Lease, the Equipment Trust Agreement, the Assumption and Confirmation of Assignment Agreement, this Agreement or any other document referred to in any such agreement or the enforcement of any of the terms of any thereof, or in any way relating to or arising out of the administration of the Estate or the action or inaction of the Owner Trustee under the Owner Trust Agreement (including, without limitation, the performance by the Owner Trustee of any duties required of it by Sections 5.1 or 5.2 thereof), except only in the case of negligence or wilful misconduct on the part of the Owner Trustee (i) in the performance of its duties thereunder or (ii) its failure to perform its duties and obligations thereunder or under the Equipment Trust Agreement or the Lease or any of the documents, instruments and agreements referred to therein to which the Owner Trustee is a party. The indemnities contained in this paragraph 5 shall survive the termination and revocation of the Owner Trust Agreement and the Lease.

6. This Agreement shall be construed and enforced

in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF, the parties hereto have
caused this Agreement to be duly executed on the 17th
day of November, 1978.

THE ROYAL TRUST COMPANY

By: 

MICHAEL L. BINGHAM, ASST. MANAGER, CORP. TRUST DIV.

By: 

R. HAYMAN, SENIOR CORP. TRUST OFFICER

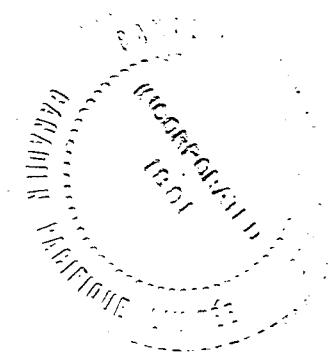
CANADIAN PACIFIC LIMITED

By: 

PRESIDENT

By: 

ASSISTANT SECRETARY



Appendix "A"

THIS AGREEMENT made as of the 21st day of June, 1978, between J. P. MORGAN INTERFUNDING CORP., a corporation incorporated under the laws of Delaware, (herein called the "Transferor") and CANADIAN PACIFIC LIMITED, a company incorporated under the laws of Canada (herein called the "Transferee").


WHEREAS the Transferor is the sole beneficiary under a Trust Agreement (herein called the "Owner Trust Agreement") dated as of May 1, 1977, between the Transferor and The Royal Trust Company, a trust company incorporated by special charter under the laws of the Province of Quebec, Canada, as trustee (herein called the "Owner Trustee"); and

WHEREAS the Transferee has notified the Transferor of the Transferee's desire to purchase the Transferor's beneficial interest in the Owner Trust Agreement and in the Estate (as defined in the Owner Trust Agreement) pursuant to the provisions of paragraph 8(a) of the Participation Agreement dated as of May 1, 1977, between the Transferor, the Transferee and the Owner Trustee; and

WHEREAS all terms used herein have the same meaning as such terms are defined in the Participation Agreement;

④


NOW, THEREFORE, in consideration of the sum of \$3,248,121.76 of lawful money of the United States of America, the receipt of which is hereby acknowledged by the Transferor, the Transferor does hereby sell, assign and transfer unto the Transferee all the Transferor's right, title and interest in and to the Owner Trust Agreement and the Estate ("Transferor's Interest") free and clear of all liens, security interests and other encumbrances arising through or attributable to the Transferor, other than the rights of the Equipment Trustee (and the holders of the Equipment Trust Certificates) and obligations assumed by the Transferee, as Lessee, under the terms of the Lease. Notwithstanding the foregoing, but subject to paragraph 1 hereof, the Transferor does not make, nor shall the Transferor be deemed to or have made, any representation or warranty, either expressed or implied, as to title to, as to the design, condition or merchantability, as to the quality of the material, equipment or workmanship in, the Equipment or the Transferor's Interest therein, or as to the fitness of the Equipment for any particular purpose or any particular trade, or any other representation or warranty whatsoever with respect to the Equipment or the Transferor's Interest, and the Transferee shall have no recourse to the Transferor with respect thereto.



The parties further agree that:

1. The Transferor represents and warrants to the Transferee that the Transferor's Interest being conveyed hereunder is the Transferor's Interest obtained pursuant to the Owner Trust Agreement and the Transferor has not impaired or encumbered the Transferor's Interest from the date of the Owner Trust Agreement to the date hereof.

2. The Transferee represents and warrants to the Transferor that:

- (a) the Transferee has the requisite power and authority to enter into and carry out the transactions contemplated by the Owner Trust Agreement and this Agreement:
- (b) this Agreement does not violate any provisions of the Railway Act (Canada) or create a relationship which would be in violation thereof. 

- (c) the Transferee will enter into such agreements, if required, with the Owner Trustee, the Equipment Trustee and the holders of Equipment Trust Certificates, whereby the Transferee will confirm that it will be bound by all the terms of and undertake all the obligations of the Beneficiary contained in the Owner Trust Agreement; and
- (d) the Transferee is a corporation with a combined capital and surplus of at least U.S. \$25,000,000.

2. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective officers duly authorized as of the 21st day of June, 1978.

J. P. MORGAN INTERFUNDING CORP.

By: 

CANADIAN PACIFIC LIMITED

By: 

Vice-President
Finance and Accounting

By: 